FOR MYSORE STATE

DEVELOPMENT (195 2) Department.

SERIES.

G.O. No. Ms.4844.

Dated 12th November 1952.

[Despatch Abstract.]

Act - Madras Shops and Establishments - Act, 1947 - Section 2 (12) (V) of the Act Inclusion of watch men - Papers recorded.

Development Department.

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Memorandum No. 81411 PIII/51-6 dated 14.5.1952.

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Sub: Madras Shops and Establishments Act, 1947 - Section 2(12)(v) of the Act - Inclusion of Watchman of a theatre in the term 'person employed'.

Ref: From the Commissioner of Labour, letter No.Fl. 44710/51 dated 23.7.1951.
From the Commissioner of Labour, letter No.Fl.44710/51-A dated 30.4.1952.

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The Commissioner of Labour is informed that in the case of theatres, 'watchmen' can be brought under section 2(12)(v) by the issue of a notification under that section and in the case of shops, commercial and other establishments, 'Watchmen' can come within the xxx words "persons wholly or principally employed in connexion with the business" which occur in sub-sections (i), (iii) and (vi) of section 2(12) of the Act. But in the case of a factory or an industrial undertaking, a restaurant or an eating house, 'watchmen' cannot be taken to be 'person employed' within the meaning of section 2(12) of the Act. The Government consider that it would be inconsistent to confine the classification of watchmen as 'persons employed' in respect of theatres only. If the classification is to be extended to watchmen employed in factories, industrial undertaking, restaurants or eating houses also, section 2(12) will have to be suitably amended. However in view of the contemplated central legislation for workers in shops and commercial establishments, the Government consider that no amendment to section 2(12) of the Madras Shops and Establishments Act, 1947 is necessary at present pending the passing of the Central legislature. The receipt of the connected Central Bill in the matter is awaited.

J.M. LOBO PRABHU,
Secretary to Government.

To the Commissioner of Labour.

/true copy/

Superintendent.

Typed by R. Jayalakshmi. /28.11.53.

Examined by: A. Viswanathan 1.12.53

Read by: T. C. Sita Lakshmi 1.12.53

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Development (PKIII) Dept.

Under section 2(12) (v) of the Madras shops and Establishments Act 'person employed' is defined as a 'person employed as an operation, clerk, floor-keeper, usher or in such capacity as may ber specified by the State Govt. by general or special order. The employer New Tower Talkies, Tanjore, has refused to pay wage for the period of leave of a watchman employed by him on the pleas that a watchman cannot be taken to be a person employed as defined in section 2(12) (v) and he has not been included in a list of persons employed with reference to that section. In that case watchman cannot be taken to be an employee in the case of factory or industrial undertaking, restaurants and eating houeses also. The C.L. requests for a ruling in the matter.

2. Legal say that in the case of theatres watchman can be brought within the scope of the Act by the issue ~~mx~~ of a notification under section 2(12) (v) of the Act, that watchman will come within the purview of the words 'persons wholly or principally employed in connection with the business in case of shops, commercial establishments and other establishments with reference to Section 2(12) (i), (iii) and (vi). Legal also say that, if the intention is that in the case of a factory or an industrial establishment, a restaurant or eating house watchman should be 'persons employed' within the meaning of section 2(12) of the Act, the section has to be amended.

3. The C.L. has already submitted proposals ~~mx~~ separately for amending the Act. When the Govt. of India were addressed in the matter they have stated that a departmental bill applicable to all shops and establishments throughout the country is in the course of finalisation. It has therefore been decided not to proceed with the amendments to the Madras Shops and Establishments Act proposed by the C.L. pending receipt of the bill from the Govt. of India. As already stated watchman in theatres can be brought within the scope of the Act by the issue of a notification but if there is to be consistency in the matter, that is, if watchman in theatres should be brought within the scope of the Act only

p.t.o.

along with watchman in factories or industrial establishments and a restaurant or eating house, the Government have to wait till the Government of India pass an Act.

4. Submitted for orders whether the watchman in theatres alone can now be brought within the scope of the Act by the issue of a notification. If so the draft order scrutinised by Legal may issue. Otherwise the matter has to be taken up when the Govt. of India send their bill for remarks or opinion.

No amendment to the act seems necessary now. Necessary extracts from this file may be added to the file dealing with the amendments. The draft order below may be removed

5.10.52.

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Resubmitted:

This file has been pending for ever year awaiting the receipt of the Government of India Bill for regulating the conditions of work in shops and commercial establishments throughout the country. The Government of India have stated that the draft bill is still under consideration they have been separately addressed as to when the Bill will sent for comments. As it is likely to take some more time for the Government of India to finalize the bill, the papers in this file may be "recorded" with a call book entry against 1-2-1953 For orders.

S.G.11/11/1952.

§ J.M.L.10-11-1952

G.O.Ms.No.4844, Development, Dated 12-11-1952.

Act - Madras Shops and Establishment Act, 1947 Section 2(12)(V) of the Act - Includion of watchmen - Papers Recorded.

/True Copy/

SUPERINTENDENT.

Typed by V.Raman.30/11/1952.

Examined by: A. Viswanathan 1.12.53

Read by: J.C. Sivalakshmi 1.XII.53